HON'BLE Mrs. JUSTICE T.MEENA KUMARI
AND
HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.1052 OF 2007

DATE: 17-12-2007

Between :

Sri D. Mohan Rao … Appellant

And

1. The Chairman, Visakhapatnam Port Trust,
   Visakhapatnam., and two others. ... Respondents

HON'BLE Mrs. JUSTICE T.MEENA KUMARI
AND
HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.1052 OF 2007

JUDGMENT : (Per Mrs. Justice T.Meena Kumari)

This writ appeal is filed against the order of the learned Single Judge dated 30.8.2007 in W.P.No.19906 of 2005.

The appellant is the 2nd respondent in the writ petition which was filed by the respondents 1 and 2 herein – Visakhapatnam Port Trust. Challenging the award dated 10.1.2005 passed by the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad (for short, 'the Tribunal') in I.D.No.157 of 2002 under which the Tribunal ordered reinstatement of the appellant herein without back-wages. The learned Single Judge while allowing the writ petition set aside the said award on the ground that the dispute raised by the appellant herein was not only a stale one but also speculative in its nature.

We have heard the learned Counsel for both the parties.

The material on record shows that the appellant herein who was appointed as Khalasi in the 1st respondent Port Trust under Burma Repatriates Quota was terminated from service on 21.4.1981 on the ground that the certificate produced by him showing that he was Burma Repatriate was not a genuine one. He raised a dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 before the Tribunal after 20 years challenging the termination dated 21.4.1981. Though a specific objection was raised by the 1st respondent Port

Trust that the dispute raised after a lapse of more than 20 years cannot be entertained, the Tribunal below having gone into merits of the case concluded that the dismissal was wrong and directed the 1st respondent Port Trust to appoint the appellant herein as Khalasi on the minimum pay applicable at that time subject to his being found medically fit and also giving age relaxation. However, he was denied back-wages.

When the said award is challenged before the 1st respondent Port Trust, the learned Single Judge, after hearing both the parties, held as under :

> "At the outset, I am of the opinion that it is unfortunate that such a stale and chance litigation was entertained by the Industrial Tribunal. The services of the 2nd respondent – workman, who was working as Khalasi with the petitioners – management, were terminated on 21.04.1981 on the ground that the Burma repatriate certificate produced by him was not a genuine one. It may be appropriate to notice that in Ex.M13, a letter, dated 03.08.1981, addressed by the Collector, Visakhapatnam to the 2nd petitioner herein, it was stated that out of 19 candidates, whose certificates were found to be not genuine one, 7 candidates have applied for fresh certificates and they were found to be real Burma repatriates. But, the management came to a decision that there is no justification to reopen the case as the certificate initially submitted by the workman was confirmed as not genuine. Thus, his services were terminated in terms of the appointment order. Whenever an appointment is obtained by producing a fake or non-genuine certificate, the appointing authority is entitled to terminate the services of such person, after verification and without conducting any further enquiry into the matter. May be, the workman has produced another certificate on 28.5.1981 showing that he was a genuine Burma repatriate, but that itself will not cure the fraud committed by him initially by producing a fake certificate at the time of obtaining employment. Even assuming that the petitioners are supposed to conduct some enquiry into the matter and then terminate the services of the 2nd respondent – workman, in a case of this nature, wherein the 2nd respondent – workman approached the Industrial Tribunal, after a lapse of twenty long years, firstly, the dispute raised by him could not have been entertained by the Industrial Tribunal and secondly such award could not have been passed."

Having heard the learned counsel for both the parties, We do not find any justifiable reason to interfere with the view expressed by the learned Single Judge which is in accordance with the settled principles of law.

Hence, the Writ Appeal is dismissed. No costs.

T.MEENA KUMARI, J.

G. ROHINI, J

Dt.17-12-2007
gbs